

## **VOLUNTARY EXPEDITED FILING PROCEDURES FOR INSURANCE APPLICATIONS TO MEET DISCLOSURE OBLIGATIONS OF DEPOSITORY INSTITUTIONS UNDER SECTION 305 OF THE GRAMM-LEACH-BLILEY ACT**

This Bulletin is directed to all insurance companies and other regulated entities subject to the consumer disclosure regulations promulgated by the federal banking agencies under Section 305 of the Gramm-Leach-Bliley Act.

### **Background**

On December 4, 2000, the four principal banking regulatory agencies published final consumer protection rules regarding bank insurance sales pursuant to Section 305 of the federal Gramm-Leach-Bliley Act (GLBA.) The published rules may be obtained from the *Federal Register*, Volume 65, Number 233. Federal regulators recently agreed to postpone the effective date of these rules from April 1, 2001 to Oct. 1, 2001, to give depository institutions more time to implement the regulations.

The regulations require depository institutions that sell insurance products to make certain disclosures and receive consumer acknowledgements, which are intended to reduce consumer confusion in the sale of insurance products by depository institutions. Depository institutions may place these disclosures on insurance application forms. In order to do so, depository institutions that sell insurance products will need to ask insurers to file the necessary applications with this Department of Insurance pursuant to state statutes.

The Indiana Department of Insurance has agreed to adopt an expedited process for reviewing these application forms. The purpose of this Bulletin is to provide regulated entities with the appropriate forms and instructions to receive expedited review of insurance application forms that are revised **only** to add consumer notices, as one way for depository institutions to meet their disclosure obligations under Section 305 of the GLBA. This expedited review process is voluntary. It is up to you to choose whether or not to use this process to expedite filings of such amended insurance applications.

In pertinent part, Section 305 of the GLBA requires:

The Federal banking agencies shall prescribe and publish in final form . . . customer protection regulations (which the agencies jointly determine to be appropriate) that –

- (A) apply to retail sales practices, solicitations, advertising, or offers of any insurance product by any depository institution or any person that is engaged in such activities at an office of the institution or on behalf of the institution; and
- (B) are consistent with the requirements of this Act and provide such additional protections for customers to whom such sales, solicitations, advertising, or offers are directed.

### **Explanation and Instructions for Expedited Review**

Below are two model notices for use by depository institutions and other “covered persons” in complying with these consumer disclosure regulations. (In addition to depository institutions, a

“covered person” is any other person who sells, solicits, advertises, or offers an insurance product or annuity to a consumer at an office of the depository institution or on behalf of a depository institution.)<sup>1</sup> One notice provides the written disclosures that must be given to a consumer in connection with an initial purchase of an insurance or annuity product that is unrelated to an extension of credit. The other notice provides the written disclosures that must be given to a consumer in connection with the solicitation, offer or sale of an insurance or annuity product that is related to an extension of credit.

The federal banking agencies have reviewed both notices and determined that they meet the requirements of 12 C.F.R. 14.40 (a) and (b) in the case of national banks; 12 C.F.R. 208.84 (a) and (b) in the case of state member banks; 12 C.F.R. 343.40 (a) and (b) in the case of state non-member banks; and 12 C.F.R. 536.40 (a) and (b) in the case of savings associations.

The regulations require that these disclosures be “readily understandable” and in a “meaningful” form. Institutions can call attention to the disclosures by using, for example,; (i) a plain-language heading to the disclosures; (ii) a typeface and type size that are easy to read; (iii) wide margins and ample line spacing; (iv) boldface or italics for key words; or (v) distinctive type style, and graphic devices, such as shading or sidebars, when the disclosures are combined with other information. See 12 C.F.R. 14.40(c)(6) in the case of national banks; 12 C.F.R. 208.84(c)(6) in the case of state member banks; 12 C.F.R. 343.40(c)(6) in the case of state non-member banks; and 12 C.F.R. 536.40(c)(6) in the case of savings associations.

References to “the bank” should be to “the savings association” in the case of a savings association, or may be to the actual name of the bank or savings association.

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<sup>1</sup> Activities on behalf of a depository institution include activities where a person, whether at an office of the depository institution or at another location sells, solicits, advertises, or offers an insurance product or annuity and at least one of the following applies:

- (i) The person represents to a consumer that the sale, solicitation, advertisement, or offer of any insurance product or annuity is by or on behalf of the depository institution;
- (ii) The depository institution refers a consumer to a seller of insurance products or annuities and the depository institution has a contractual arrangement to receive commissions or fees derived from a sale of an insurance product or annuity resulting from that referral; or
- (iii) Documents evidencing the sale, solicitation, advertising, or offer of an insurance product or annuity identify or refer to the depository institution.

**DISCLOSURE NOTICE 1: Model Written Disclosure for the Initial Purchase of Insurance or Annuity Products that are *Not Sold* in Connection with an Extension of Credit**

Insurance products and annuities:

- Are not a deposit or other obligation of, or guaranteed by, the bank or any affiliate of the bank;
- Are not insured by the Federal Deposit Insurance Corporation (FDIC) or any other agency of the United States, the bank, or any affiliate of the bank;
- [Involve investment risk, including the possible loss of value.] *Note: This disclosure may not be required for all products.*

Please sign to acknowledge receipt of these disclosures:

Name of Customer: \_\_\_\_\_

Customer Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**DISCLOSURE NOTICE 2: Model Written Disclosure for Insurance Products that Are Solicited, Offered, or Sold in Connection with an Extension of Credit**

In connection with your credit application, [name of bank or savings association] advises you of the following:

- [Name of bank or savings association] may not condition the extension of credit you are applying for on whether you purchase an insurance product or annuity from the bank or the bank's affiliate.
- [Name of bank or savings association] may not condition the extension of credit you are applying for on your agreement not to obtain, or a prohibition on your obtaining, an insurance product or annuity from an entity not affiliated with the bank.

Insurance products and annuities:

- Are not a deposit or other obligation of, or guaranteed by, the bank or any affiliate of the bank;
- Are not insured by the Federal Deposit Insurance Corporation (FDIC) or any other agency of the United States, the bank, or any affiliate of the bank;
- [Involve investment risk, including the possible loss of value.] *Note: This disclosure may not be required for all products.*

Please sign to acknowledge receipt of these disclosures:

Name of Customer: \_\_\_\_\_

Customer Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## **Forms with Instructions**

With this Bulletin is a uniform filing transmittal form that has been agreed upon by Indiana and other states. An insurer wishing to receive expedited review of its filing shall complete the EXPEDITED FILING—SECTION 305 APPLICATION as directed. In addition, the insurer(s) submitting the filing must certify that the only change made from the previous application form is the addition of the disclosure notices required by Section 305 of the Gramm-Leach-Bliley Act for depository institutions. Certification is made by signing the appropriate blank on the transmittal form.

The filing should be sent to Jerald Wise, Deputy Commissioner for Company Services, Indiana Department of Insurance, and should include:

1. Two copies of the completed, certified Section 305 Application for each insurer
2. The appropriate filing fee.
3. A postage-paid, self-addressed envelope **large enough to accommodate the stamped return copy of the form.** Note that a comparable filing transmittal form is available in SERFF.

If this filing is for multiple companies, please provide a copy of the Section 305 Application for each company and an extra copy for return to the company. (i.e. 7 companies = 8 copies)

**To meet the October 1, 2001 compliance date set forth in the federal regulations, forms should be filed with this Department no later than September 10, 2001.**

## **Effective Date**

This Bulletin shall take immediate effect and shall expire on January 1, 2002.

INDIANA DEPARTMENT OF INSURANCE

Sally McCarty, Commissioner

**EXPEDITED FILING—SECTION 305 APPLICATION**  
**Form Filing Transmittal Document**

Ed. 4/13/01

This page applies to the following state(s) \_\_\_\_\_

|                     |
|---------------------|
| Department Use only |
|                     |

| Company Name(s)       | Domicile | NAIC #     | FEIN #     |
|-----------------------|----------|------------|------------|
| ABC Insurance Company | NY       | 0000-99999 | 99-1234567 |
|                       |          |            |            |
|                       |          |            |            |
|                       |          |            |            |

**Contact Info for Filer**

| Name and address of Filer(s)  | Telephone #  | FAX #        | e-mail              |
|---|--------------|--------------|---------------------|
| John Doe (Form Filing)<br>Regulatory Compliance<br>ABC Insurance Co.<br>12345 Fifth Ave<br>New York, NY 10234 | 501-555-5555 | 501-555-5551 | John.doe@abcins.com |

**Filing information**

|   |   |
|---|---|
| Line of Insurance (see attachment)                      | Employment Practices  |
| Company Program Title (Marketing title) (if applicable) |   |
| Filing Type ** see note below                           | Form (Application)  |
| This application is used with:                          | (Insert policy form number to which the application attaches)     |
| Effective Date Requested                                | 10-01-01 (Enter your desired effective date)                      |
| Filing date   | (Date Company sends filing)                                       |
| Company Tracking Number                                 | ABC-EP-2001-01 (Enter your filing tracking number, if applicable) |
| Date filing approved in domiciliary state               | Not approved yet. Filed on same date as this filing.              |

|    | <u>Component/Form Name</u><br><u>/Description/Synopsis</u> | Form #)<br>Include edition date | Replacement<br>Or withdrawn?  | If replacement,<br>give form #<br>it replaces | Previous State<br>Filing Number,<br>if required<br>by state |
|----|--|---------------------------------|---|---|---|
| 01 | Application for Individual Term Life Insurance             | TLA 01234 (Ed. 03/01)           | <input checked="" type="checkbox"/> Replacement<br><input type="checkbox"/> Withdrawn<br><input type="checkbox"/> Neither | TLA 01234<br>(10/99)                          |   |
| 02 |  |                                 | <input type="checkbox"/> Replacement<br><input type="checkbox"/> Withdrawn<br><input type="checkbox"/> Neither            |   |   |

To be complete, a form filing must include the following:

4. A completed Form Filing Transmittal Header for each insurer
5. One copy of each application form to be reviewed for the reviewer's records for each insurer.
6. The appropriate filing fees, if required
7. A postage-paid, self-addressed envelope **large enough to accommodate the return.**

The insurer(s) submitting this filing certifies that the only change made from any previously filed and, if applicable, approved application form is the addition of the disclosure notices required by Section 305 of the Gramm-Leach-Bliley Act

\_\_\_\_\_ Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

**If this filing is for multiple companies, please provide a copy of the transmittal header for each company and an extra copy for return to the company. (i.e. 7 companies = 8 copies)**